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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/693,840
Filing Date: October 23, 2000
Appellant(s): ARSENAULT, DAVID

Kevin E. Greene – Reg. No. 46,031
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 28, 2004.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

The rejection of claims 7-11, 18-22 and 29-72 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

6,490,602	Kraemer	12-2002
6,564,243	Yedidia et al.	05-2003

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 7-8, 11, 18-19, 22, 29-30, 33 and 61-72 are rejected under 35 U.S.C. 102(e) as being anticipated by Kraemer (U.S. 6,490,602).

With respect to claim 7, Kraemer teaches a method of processing a browser request from a browser executing on a computer, the method comprising:

intercepting the browser request from the browser executing on the computer **[Kraemer -- Col. 2 lines 51-62 – Enhanced functionality server intercepts browser request]**;

when the browser request specifies a selected destination network resource **[Kraemer -- Col. 2 lines 48-50 and lines 53-58 and Col. 3 lines 21-32 – Selected destination network resources are independent sources, defined as independent retailers or vendors]**:

splitting a display of the browser into at least two sections;

displaying the selected destination network resource in a first of the two sections; and

displaying a toolbar in a second of the two sections **[Kraemer -- Figure 1B, Col. 2 lines 63-67 and Col. 3 lines 17-20 – Browser display is divided into two sections, one area to display the requested page contents and the other area to display a toolbar]**.

With respect to claim 8, Kraemer further teaches determining whether the browser request specifies the selected network resource **[Kraemer -- Col. 2 lines 48-50 and lines 53-58 and Col. 3 lines 21-32 – Request is received by enhanced functionality server upon which a determination is made to determine if request specifies a product webpage from an independent source, i.e. retailer or vendor. Enhanced functionality server only provides this service to product web pages, i.e. from vendors or retailers]**.

With respect to claim 11, Kraemer further teaches wherein the toolbar comprises shopping tools **[Kraemer -- Figure 1B and Col. 2 lines 63-67 – Col. 3 lines 1-8 – Toolbar contains services, such as "purchase this product" to assist customers]**.

With respect to claims 18, 19 and 22, these are system processor claims corresponding to the method claimed in claims 7, 8 and 11. They have similar limitations; therefore, claims 18, 19 and 22 are rejected under the same rationale.

With respect to claims 29, 30 and 33, these are system claims corresponding to the method claimed in claims 7, 8 and 11. They have similar limitations; therefore, claims 29, 30 and 33 are rejected under the same rationale.

With respect to claim 61, Kraemer further teaches wherein the destination network resource specified by the browser request corresponds to a merchant web site **[Kraemer -- Col.**

2 lines 48-50 and Col. 3 lines 21-32 – Destination resource specified in request is for a product web page from an independent source, i.e. vendor, retailer or merchant].

With respect to claim 62, Kraemer further teaches wherein the toolbar comprises at least two segments **[Kraemer -- Figure 1B and Col. 2 lines 63-67 – Col. 3 lines 1-8 and Col. 3 lines 53-67 – Col. 4 lines 1-7 – Toolbar comprises multiple sections, i.e. segments, providing shopping services in one section, advertisements in another and also a field to jump to a different site in another section]**.

With respect to claim 63, Kraemer further teaches wherein a first of the two segments comprise one or more of: a tool for selecting a shopping category; a tool for issuing a new browser request for a different destination network resource; a tool for obtaining customer service information; a tool for finding an appropriate merchant based on a user's shopping needs; or a tool for obtaining protection in the event of unfair treatment by a merchant **[Kraemer -- Figure 1B and Col. 3 lines 53-67 – Col. 4 lines 1-7 – Toolbar includes a tool for jumping to another site by entering a network resource]**.

With respect to claim 64, Kraemer further teaches wherein a second of the two segments comprise one or more of: a tool for accelerating business transactions with the merchant web site corresponding to the destination network resource specified by the browser request; a tool for determining one or more merchant web sites that a user has previously visited; a tool for issuing a request for a destination network resource that corresponds to a most recently visited merchant

web site; or a tool for searching the merchant web site that corresponds to the destination network resource specified by the browser request **[Kraemer -- Figure 1B and Col. 2 lines 63-67 – Col. 3 lines 1-8 and Col. 3 lines 53-67 – Col. 4 lines 1-7 and lines 12-22 – Toolbar contains services to provide quick access to purchase products and to obtain information to facilitate future transactions for the customer]**.

With respect to claims 65-68, these are system processor claims corresponding to the method claimed in claims 61-64. They have similar limitations; therefore, claims 65-68 are rejected under the same rationale.

With respect to claims 69-72, these are system claims corresponding to the method claimed in claims 61-64. They have similar limitations; therefore, claims 69-72 are rejected under the same rationale.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 9-10, 20-21, 31-32 and 34-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraemer (U.S. 6,490,602) in view of Yedidia et al. (U.S. 6,564,243).

Regarding claim 9, Kraemer teaches the invention substantially as claimed, as aforementioned in claim 8 above, including determining a destination resource specified by the browser request **[Kraemer -- Col. 3 lines 21-40 – Browser request for product page is received and URL, i.e. destination resource, is parsed]**.

Kraemer fails to explicitly teach comparing the destination resource specified to a list of selected destination resources to determine if a match exists.

Yedidia, however, discloses a method of comparing the browser request for the specified resource to a list of pre-selected resources to determine if external content should be added **[Yedidia -- Col. 4 lines 30-32 and Col. 6 lines 25-37 – Request is checked against pre-configured addition policy to determine if external content is to be added based upon the destination resource specified]**.

Both Kraemer and Yedidia are concerned with intercepting requests to network resources to provide additional resource functionality and content.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the comparing of a browser request for a specified resource to a list of pre-selected resources for determining if external content should be added, as taught by Yedidia into the invention of Kraemer in order to provide a fast and easy mechanism to determine if special instructions or enhanced functionality should be added based upon the destination resource specified.

Regarding claim 10, Kraemer-Yedidia teach the invention substantially as claimed, wherein when the browser request specifies a selected destination network resource, the method further comprises directing the browser request to a server other than a destination server on which the selected destination network resource resides **[Yedidia -- Col. 7 lines 48-54 – Destination network resource content is displayed by directing the original request to retrieve information using the proxy server rather than actually directing the request to the specified destination network resource server. Proxy server contains the selected destination network resource having already downloaded it to local storage device]**.

Regarding claims 20 and 21, these are system processor claims corresponding to the method claimed in claims 9 and 10. They have similar limitations; therefore, claims 20 and 21 are rejected under the same rationale.

Regarding claims 31 and 32, these are system claims corresponding to the method claimed in claims 9 and 10. They have similar limitations; therefore, claims 31 and 32 are rejected under the same rationale.

Regarding claim 34, Kraemer teaches a method of processing a browser request from a browser executing on a computer, wherein the browser request specifies a destination network resource residing on a destination server, the method comprising:

intercepting the browser request that specifies a destination network resource residing on a destination server **[Kraemer -- Col. 2 lines 51-62 – Enhanced functionality server intercepts browser request]**; and

processing the browser request at the other server, wherein processing the browser request comprises:

retrieving the destination network resource specified by the browser request **[Kraemer -- Col. 3 lines 33-39 – Specified network resource is retrieved]**;

splitting a display of the browser at the computer into at least two sections;

displaying the destination network resource specified by the browser request in a first of the two sections; and

displaying a toolbar in a second of the two sections **[Kraemer -- Figure 1B, Col. 2 lines 63-67 and Col. 3 lines 17 – Browser display is divided into two sections, one area to display the requested page contents and the other area to display a toolbar]**.

Kraemer fails to explicitly teach determining whether the destination resource matches a selected destination resource and directing the browser request for content to a server other than the one specified within the request.

Yedidia, however, discloses a method of comparing the browser request for the specified resource to a list of pre-selected resources to determine if external content should be added **[Yedidia -- Col. 4 lines 30-32 and Col. 6 lines 25-37 – Request is checked against pre-configured addition policy to determine if external content is to be added]**.

In addition, Yedidia discloses directing the browser request to a server other than a destination server on which the selected destination network resource resides **[Yedidia -- Col. 7 lines 48-54**

– Destination network resource content is displayed by directing the original request to retrieve information using proxy server rather than actually directing the request to the specified destination network resource server. Proxy server contains the selected destination network resource having already downloaded it to local storage device].

Both Kraemer and Yedidia are concerned with intercepting requests to network resources to provide additional resource functionality and content.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the comparing of a browser request for a specified resource to a list of pre-selected resources for determining if external content should be added along with directing the browser request to a server other than a destination server to retrieve the requested content, as taught by Yedidia into the invention of Kraemer in order to provide a fast and easy mechanism to determine if special instructions or enhanced functionality should be added based upon the destination resource specified and to further provide for faster content display by obtaining the content locally from one server rather than having to be redirected to another server which adds to the latency and wait time.

Regarding claim 35, Kraemer-Yedidia teach the invention substantially as claimed, as aforementioned in claim 34 above, including:

determining the destination network resource specified by the browser request **[Kraemer -- Col. 3 lines 21-40 – Browser request for product page is received and URL, i.e. destination resource, is parsed]**;

comparing the destination network resource specified by the browser request to a list of selected destination network resources to determine if the destination network resource specified by the browser request matches at least one of the selected destination network resources in the list **[Yedidia -- Col. 4 lines 30-32 and Col. 6 lines 25-37 – Request is compared and checked against pre-configured addition policy to determine if external content is to be added based upon the destination resource specified]**.

Regarding claim 36, Kraemer-Yedidia teach the invention substantially as claimed, as aforementioned in claim 34 above, including wherein retrieving the destination network resource specified by the browser request comprises retrieving the destination network resource specified by the browser request from the destination server **[Yedidia -- Col. 7 lines 43-48 – Destination network resource can be retrieved by directing the request to the destination server where the resource is stored]**.

Regarding claim 37, Kraemer-Yedidia teach the invention substantially as claimed, as aforementioned in claim 34 above, including wherein retrieving the destination network resource specified by the browser request comprises retrieving the destination network resource specified by the browser request from a cache associated with the server other than the destination server **[Yedidia -- Col. 7 lines 48-54 – Destination resource specified in request can be retrieved from proxy server which has the resource stored locally, i.e. cached]**.

Regarding claim 38, Kraemer-Yedidia teach the invention substantially as claimed, as aforementioned in claim 34 above, including wherein the toolbar comprises shopping tools **[Kraemer -- Figure 1B and Col. 2 lines 63-67 – Col. 3 lines 1-8 – Toolbar contains services, such as "purchase this product" to assist customers]**.

Regarding claim 39, Kraemer-Yedidia teach the invention substantially as claimed, as aforementioned in claim 38 above, including wherein the destination network resource specified by the browser request corresponds to a merchant web site **[Kraemer -- Col. 2 lines 48-50 and Col. 3 lines 21-32 – Destination resource specified in request is for a product web page from an independent source, i.e. vendor, retailer or merchant]**.

Regarding claim 40, Kraemer-Yedidia teach the invention substantially as claimed, as aforementioned in claim 39 above, including wherein the toolbar comprises at least two segments **[Kraemer -- Figure 1B and Col. 2 lines 63-67 – Col. 3 lines 1-8 and Col. 3 lines 53-67 – Col. 4 lines 1-7 – Toolbar comprises multiple sections, i.e. segments, providing shopping services in one section, advertisements in another and also a field to jump to a different site in another section]**.

Regarding claim 41, Kraemer-Yedidia teach the invention substantially as claimed, as aforementioned in claim 40 above including wherein a first of the two segments comprise one or more of: a tool for selecting a shopping category; a tool for issuing a new browser request for

a different destination network resource; a tool for obtaining customer service information; a tool for finding an appropriate merchant based on a user's shopping needs; or a tool for obtaining protection in the event of unfair treatment by a merchant **[Kraemer -- Figure 1B and Col. 3 lines 53-67 – Col. 4 lines 1-7 – Toolbar includes a tool for jumping to another site by entering a network resource]**.

Regarding claim 42, Kraemer-Yedidia teach the invention substantially as claimed, as aforementioned in claim 40 above, including wherein a second of the two segments comprise one or more of: a tool for accelerating business transactions with the merchant web site corresponding to the destination network resource specified by the browser request; a tool for determining one or more merchant web sites that a user has previously visited; a tool for issuing a request for a destination network resource that corresponds to a most recently visited merchant web site; or a tool for searching the merchant web site that corresponds to the destination network resource specified by the browser request **[Kraemer -- Figure 1B and Col. 2 lines 63-67 – Col. 3 lines 1-8 and Col. 3 lines 53-67 – Col. 4 lines 1-7 and lines 12-22 – Toolbar contains services to provide quick access to purchase products and to obtain information to facilitate future transactions for the customer]**.

Regarding claims 43-51, these are system processor claims corresponding to the method claimed in claims 34-42. They have similar limitations; therefore, claims 43-51 are rejected under the same rationale.

Regarding claims 52-60, these are system claims corresponding to the method claimed in claims 34-42. They have similar limitations; therefore, claims 52-60 are rejected under the same rationale.

(11) Response to Argument

(A) Applicant contends that Kraemer fails to teach or suggest that the toolbar is added to the webpage when the browser request specifies a selected destination network resource, whereas claims 7, 18 and 29 call for this limitation.

In response to argument (A), the Examiner respectfully disagrees with the applicant's rationale and asserts that Kraemer does in fact teach that the toolbar is added to the webpage when the browser request specifies a selected destination network resource, i.e. URL. Kraemer disclose (See Col. 2 lines 48-50) that independent sources are associated with independent retailers or vendors, i.e. merchants. When the user accesses independent sources, i.e. retailers, vendors, merchants, tools and enhanced services are added to the site. See Col. 2 lines 53-60. Kraemer teaches that a toolbar is added to any websites associated with an independent source, defined by Kraemer as a product vendor, retailer or merchant. Once request is received for a product webpage from a user, the product being associated with a product and an independent vendor (See Col. 3 lines 11-13), the webpage is retrieved and a location and structural information is extracted associated with the webpage (See Col. 3 lines 14-17). The product webpage is subsequently modified to include a toolbar having commands associated with the product which is then presented to the user (See Col. 3 lines 17-20). Kraemer explicitly teaches

that the toolbar is added when the webpage consists of a product webpage associated with a vendor, merchant and/or retailer (independent sources). These requests contain location information, i.e. URL, identifying the destination network resource, i.e. webpage. See Col. 3 lines 21-32. Therefore, the enhanced functionality server would need to determine the destination network resource and determine if it is/isn't an product vendor/retailer to determine whether to add merchant toolbar, thus meeting the claimed limitation that the toolbar is added to the webpage when the browser request specifies a selected destination network resource, the selected destination network resource being the subset of retailers/vendors/product web pages, out of the set of all possible web pages. Therefore, the examiner accordingly demurs to this assertion as Kraemer explicitly teaches that which the applicant contends. Furthermore, applicant argues that Kraemer fails to describe using a requested destination resource as "the basis for providing toolbar functionality." This language does not appear in any of claims 7, 18 or 29. It is noted that the features upon which applicant relies (i.e., using a requested destination resource as the basis for providing toolbar functionality) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

(B) Applicant contends that the combination of Kraemer and Yedidia fail to explicitly teach directing the browser request to a server other than the destination server when the destination network resource specified by the browser request matches at least one selected destination network resource, whereas, claims 34, 43 and 52 recite this limitation.

In response to argument (B), the Examiner respectfully disagrees with the applicant's contention and asserts that the combination of Kraemer-Yedidia does in fact teach that a browser request is directed to a server other than the destination server when the destination network resource specified in the browser request matches at least one selected destination network resource. Yedidia discloses that the original request is directed to a location in storage device (54) where the original content has been transferred while the external content is sent to the client. This storage device is at a different location than the original destination server. See Yedidia Col. 7 lines 48-54. Original browser request is a request for a destination site identified by a URL. In order for the request to be directed towards a storage device different from the original destination server, the request must be redirected in order to allow the request to know where to look for the information in the storage device of the content injector rather than going out to the original server specified in the original request. Therefore, request is changed to redirect to storage location (54) (See Figure 3 and Col. 4 lines 9-26); otherwise, if no content is to be added, request is not redirected and is allowed to proceed to original destination server. As Applicant states (See page 6 last paragraph through page 7 first paragraph of appeal brief) that "content injector 40 is responsible for both the evaluating of the addition policy and the

processing when additional content is to be added." This statement is true; however, the browser request is still redirected from the original destination location, specified in the URL, to content injector and storage device (54). Therefore, the Examiner demurs to the applicant's contention as Yedidia teaches redirecting the browser request.

(C) Applicant contends that the combination of Kraemer and Yedidia is improper because it would be directly contrary to the teachings of Kraemer and the intended use of Kraemer's invention.

In response to argument (C), the Examiner first points out that on Page 7 line 14 of the Appeal Brief, Applicant makes mention of the "teachings of Harada." It is unclear who Harada is as he/she is not used or relied upon within any part of the rejection or previous office action.

In addition, suggestion to combine the references in 103 rejection, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Both Kraemer and Yedidia are concerned with intercepting requests to network resources to provide additional resource functionality and content. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the comparing of a

browser request for a specified resource to a list of pre-selected resources for determining if external content should be added, as taught by Yedidia into the invention of Kraemer in order to provide a fast and easy mechanism to determine if special instructions or enhanced functionality should be added based upon the destination resource specified.

Kraemer teaches providing a toolbar for any product or vendor webpage the user may visit. In addition, Kraemer teaches a system which enhances web pages and the servers that provide them. See Kraemer Col. 1 lines 1-2. Therefore, providing a selective mechanism for determining which web pages to add enhanced functionality, as taught by Yedidia, would not be contrary to the system of Kraemer as it is modifying his system to provide the system with even more enhanced functionality by allowing more control and customization within the system to have criteria which specifies what sites to inject content into, thereby providing a more flexible and adaptable system. Yedidia supports this motivation by stating that external information to be added should be done in a controlled manner. See Yedidia Col. 2 lines 13-15. Thus, Kraemer is modified to provide greater functionality and granularity to his system. Furthermore, the motivation of Kraemer and Yedidia to "provide for faster content display by obtaining the content locally from one server rather than having to be redirected to another server which adds to the latency and wait time" is valid as Yedidia does redirect from the original destination, but not to yet another server besides the content injector. He redirects the request to a storage local to the content injector thereby achieving faster load times and reduced latency, rather than being redirected to yet another proxy causing increased wait times. Thus, based upon the above motivation and rationale, the combination of Kraemer and Yedidia is proper.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

JP
March 30, 2005

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